

Exhibit E

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL)MDL No. 1456

INDUSTRY AVERAGE WHOLESALE)Master 01-CV-12257-PBS

PRICE LITIGATION)Sub No. 06-CV-11337-PBS

_____)

THIS DOCUMENT RELATES TO:) VOLUME II

_____)

United States of America,)

ex rel.)

Ven-A-Care of the Florida)

Keys, Inc., v. Abbott)

Laboratories, Inc., CIVIL)

ACTION NO. 06-11337-PBS)

The continuation of the videotaped discovery deposition of STEVEN J. YOUNG, taken in the above-entitled cause, before DERALYN GORDON, a notary public of Cook County, Illinois, on the 14th day of May, 2009, at 77 West Wacker Drive, Suite 3500, Chicago, Illinois, beginning at approximately 9:19 a.m., pursuant to Notice.

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1 **to do in this report.**

2 BY MR. BREEN:

3 Q. If I handed you a piece of paper right
4 now, could you write out any statistical formula
5 whatsoever that you contend Dr. Duggan should have
6 applied in this case, and you believe from a
7 review of his report in supporting materials that
8 he did not apply in this case?

9 MR. TORBORG: Objection, form.

10 **A. I haven't been asked to do that, and I'm**
11 **not prepared to do that here.**

12 BY MR. BREEN:

13 Q. Can you just name a statistical principle
14 that you think he violated?

15 MR. TORBORG: Objection, asked and
16 answered.

17 **A. Again, my role was not to get into the**
18 **statistics or lack thereof associated with his**
19 **analysis.**

20 **My role was as a health care expert**
21 **that has seen overpayments to providers done**
22 **and other overpayment calculations done before**

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1 apply that knowledge to the calculations that
2 he's performed.

3 And I have seen obviously other people
4 provide statistical-based analyses, random
5 samples of the entire population to arrive at a
6 conclusion. He did not do that in his
7 calculation.

8 But the purpose of my analysis is to say
9 what facts exist based on the data and the other
10 information available in this case that raises
11 concern regarding his methodology in relationship
12 to the standards that I've seen within the
13 industry to arrive at calculations of this nature.

14 MR. BREEN: Objection, nonresponsive.

15 BY MR. BREEN:

16 Q. My question for you, sir, is since
17 you're going to be testifying to the trier of
18 fact, in criticizing a Ph.D. in economics, in
19 criticizing the statistical techniques he's
20 applied, I want you to state one statistical
21 standard, just one, using correct statistical
22 terminology that's accepted amongst statistical

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1 experts that will indicate to the Court and the
2 jury that you're even qualified to critique
3 somebody's statistical analysis or application
4 of statistics.

5 Name one standard using proper statistical
6 terminology.

7 MR. TORBORG: Objection, asked and
8 answered, argumentative.

9 A. I do not believe that the opinions in my
10 report are based on the statistical analysis that
11 he has performed.

12 The critiques in my report are based on
13 the standards that I've seen established in the
14 industry as to what's necessary to calculate
15 overpayments of provider claims based on the
16 information that's available. And that is the
17 purpose of my report. And I think my opinions
18 are clear on that point.

19 BY MR. BREEN:

20 Q. All right. So share with me one or two
21 of the learned treatises in the area of statistics
22 that you've studied and are now applying the

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1 standards that are articulated therein and
2 accepted among experts that apply statistics so
3 that the Court and the jury can evaluate the
4 standards that you're applying in critiquing
5 Dr. Duggan.

6 A. I apologize if I wasn't clear in my last
7 response, but my opinions in this matter are not
8 related to opining upon the statistical
9 methodologies or basis.

10 My opinions are based on what the
11 standards are in the industry based on what
12 I've seen for individuals to calculate to
13 sustain a position that there's been overpayments
14 on claims to providers, and the process that one
15 goes through to analyze the issues that exist
16 and apply those to the facts and circumstances
17 here.

18 My opinions were not related to the
19 statistics, to make myself clear, hopefully I
20 am this time. My opinions are contained in my
21 report. And, therefore, it's not within the scope
22 of my work to provide the information that you

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1 **asked for in your last question, and I have not**
2 **done that.**

3 Q. Okay. So these standards that you just
4 testified about in your last response just a few
5 minutes ago, name one book, one treatise, one
6 article where I can go look them up so I could
7 figure out what standards you're applying, please.

8 MR. TORBORG: Objection, asked and
9 answered.

10 A. Again, the analysis of claims data
11 that's done day in and day out to establish
12 overpayments are done by government personnel,
13 by health plans, by providers, and by many
14 consultants, such as myself, that are CPAs, do
15 not follow a book or a treatise to do the
16 calculation.

17 They go through logical analysis of
18 the specific facts related to the circumstances,
19 properly assess those facts, put them forward,
20 and then have the other party critique them and
21 reach agreement or rely on a trier of fact to make
22 the determination.

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1 So in that context there is no treatise on
2 how to calculate overpayments that I'm aware of
3 for provider claims.

4 BY MR. BREEN:

5 Q. Okay. So is that it? You can't list the
6 standards or anything else?

7 MR. TORBORG: Objection, form, misstates
8 his testimony.

9 BY MR. BREEN:

10 Q. Let me -- can I write them down? Can you
11 list the specific standards you're applying here?

12 A. Okay.

13 Q. If the answer is no, just say "no."

14 A. Again, to repeat the response to the
15 question --

16 Q. My question, sir, is can you list the
17 standards? Yes or no? If the answer is no, just
18 say so.

19 MR. TORBORG: Objection, asked and
20 answered.

21 A. The standards that I have described
22 orally --

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1

2 BY MR. BREEN:

3 Q. Give me the titles of them, the name of
4 the standard. Give me one.

5 MR. TORBORG: Objection, asked and
6 answered, argumentative.

7 BY MR. BREEN:

8 Q. One standard.

9 MR. TORBORG: Objection, asked and
10 answered, argumentative.

11 A. Okay. As I indicated before, I have done
12 many of these calculations, and I have reviewed
13 other people's calculations and had those
14 calculations critiqued.

15 They're established in the industry. They
16 are not written down in a treatise or a book.

17 BY MR. BREEN:

18 Q. Do they even have a name? Just give me a
19 name of one standard. That's all I'm asking you
20 for, a name.

21 A. There is no name that describes the
22 standard that I have described in my previous

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1 **answer.**

2 Q. So unless I did like the Vulcan mind weld
3 with you, I can't figure out what those standards
4 are? Is that what you're saying?

5 A. I think the standards that I've put
6 forth in my report as to the issues that have to
7 be addressed by Dr. Duggan to properly accomplish
8 his objectives are clear.

9 And ultimately we'll leave it to the trier
10 of fact to make the determination as to whether
11 that's adequate to meet the objectives.

12 Q. Well, one of the standards that you -- I
13 guess the standards -- I'll call them the no name
14 standards.

15 Your no name standards, some of those
16 standards, at least one of those standards, lead
17 you to conclude that there was a relationship
18 between the amount of dispensing fees the states
19 pay, the level of dispensing fees, and the level
20 of ingredient costs, correct?

21 MR. TORBORG: Objection, form.

22 A. That's the established practice in the